

# MacCord Mason

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JUL 24 2002

PETITIONS OFFICE

### TELEFAX COVER SHEET

TO: Office of Petitions	FROM: Howard A. MacCord, Jr.
ORGANIZATION/FIRM: U.S. PTO	DATE: July 24, 2002
FAX NUMBER: (703) 308-6916	RECIPIENT'S PHONE NUMBER:
TOTAL # OF PAGES (Including Cover): 12	YOUR E-MAIL ADDRESS: <a href="mailto:amaccord@maccordmason.com">amaccord@maccordmason.com</a>
RE: U.S. Application Serial No. 09/965,485; RENEWED PETITION UNDER 37 C.F.R. SECTION 1.53(e) and supporting documents.	

### NOTES/COMMENTS:

Our File 2250-013

### Confidentiality Notice

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C. Carter

Telefax Operator

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## RECEPTION OK

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START TIME	07/24(WE)15:29
USAGE TIME	03'38"
PGS.	12
RESULT	OK

#7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Smith, et al.

Filed: September 27, 2001

Serial No.: 09/965,485

For: **TREATED INHERENTLY FLAME RESISTANT POLYESTER FABRICS**

Commissioner for Patents

Washington, DC 20231

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PETITIONS OFFICE

**RENEWED PETITION UNDER 37 C.F.R. SECTION 1.53(e)**

Dear Sirs:

It is respectfully requested that the Petition Under 37 C.F.R. Section 1.53(e) which the PTO says was received on January 3, 2002, be reconsidered. An additional copy of the Petition Under 37 C.F.R. Section 1.53(e) is attached hereto along with a copy of the Preliminary Amendment which was filed on even date therewith and a copy of the drawing which was filed with the Petition. A copy of the Notice is also enclosed. The Petition was initially dismissed in a paper mailed July 17, 2002. The original petition was responsive to a "Notice of Incomplete Non-Provisional Application" pointing out that a required drawing was missing from the application as filed.

As noted in the original Petition, according to the MPEP Section 601.01(f) eighth edition, it has been U.S. PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for understanding of the invention under 35 U.S.C. Section 113. Claims 22-41 of this application are all method claims and so therefore this application needed no drawings for understanding. Thus, the "Notice of Incomplete Non-Provisional Application" mailed by the Initial Patent Examination Division was improper.

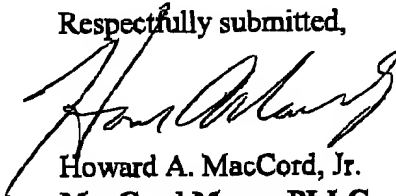
Similarly, under MPEP Section 601.01(f) coated articles or products are deemed not to require a drawing. Claims 1-21 of the application conformed to this criteria, so no drawing was required for that, either, providing a second reason that the mailing of the Notice of Incomplete Non-Provisional Application was in error.

Thus, this application has never been incomplete, and the "Notice of Incomplete" was unnecessary and need not have been responded to. As a result, the holding of Abandonment set

forth on the Decision on Petition mailed July 17, 2002 is in error and should be withdrawn, and the application should be given the benefit of the filing date of September 27, 2001.

In the alternative, however, in an attached paper the undersigned authorized the PTO to charge counsel's deposit account number 501923 for the fee of \$1280.00 under 37 C.F.R. 1.17(m) in connection with the attached Petition to Revive an Unintentionally Abandoned Application, to provide the opportunity for substantive consideration of the Petition Under 37 C.F.R. Section 1.53(e), previously filed.

Respectfully submitted,



Howard A. MacCord, Jr.  
MacCord Mason PLLC  
P.O. Box 2974  
Greensboro, NC 27402

(336) 273-4422

Date: July 24, 2002

File: 2250-013

CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY THAT THIS DOCUMENT IS  
BEING FACSIMILE TRANSMITTED TO THE  
PATENT AND TRADEMARK OFFICE (FAX NO.  
(703) 308-6916) TO: OFFICE OF PETITIONS

ON July 24, 2002  
(Date of Deposit)

Christian E. Carter  
Name of Depositor

  
Signature

#8

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Smith, et al.

Filed: September 27, 2001

Serial No.: 09/965,485

For: **TREATED INHERENTLY FLAME RESISTANT POLYESTER FABRICS**

Commissioner for Patents  
Washington, DC 20231

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**JUL 24 2002**

**PETITIONS OFFICE**

**CONDITIONAL PETITION TO REVIVE UNINTENTIONALLY ABANDONED  
APPLICATION UNDER 37 C.F.R. 1.137(b)**

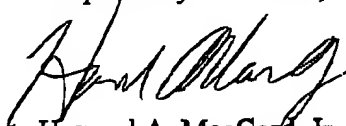
Dear Sirs:

Attached is a renewed Petition Under 37 C.F.R. 1.53(e). In the event that that petition is denied, Applicant requests revival of this application under 37 C.F.R. 1.137(b). In the event that the renewed petition is denied, the Director is authorized to charge Applicant's deposit account number 501923 for the petition fee for \$1280.00.

Attached together with this petition is a Petition Under 37 C.F.R. 1.53(c) responsive to the Notice of Incomplete Notice of Application mailed on October 25, 2001.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional.

Respectfully submitted,



Howard A. MacCord, Jr.  
MacCord Mason PLLC  
P.O. Box 2974  
Greensboro, NC 27402

(336) 273-4422

Date: July 24, 2002

File No: 2250-013

**CERTIFICATE OF TRANSMISSION**

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ON July 24, 2002  
(Date of Deposit)

Christian E. Carter  
Name of Depositor

  
Signature



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/965,485	09/27/2001	John M. Smith III	2250-013

CONFIRMATION NO. 3741

04678  
RHODES & MASON, P.L.L.C.  
P.O. BOX 2974  
GREENSBORO, NC 27402

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FORMALITIES LETTER



\*0C00000006973479\*

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Date Mailed: 10/25/2001

## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

91  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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PETITIONS OFFICE

Assistant Commissioner for Patents  
Washington DC 20231

Date: November 13, 2001  
SN/PA No. 09/965,485  
Filing/Issue Date: 9-27-2001  
Applicant/Inventor Name: John M. Smith III

Kindly acknowledge receipt of the accompanying items listed below  
by placing your receiving stamp hereon and return mailing:

☒ Check for \$ 130.00

☐ Application papers:

☐ Specification pages

☐ Number of claims

☐ Declaration

☐ Power of Attorney

☐ Assignment & fee

☐ Small Entity Statement

☒ Drawing pages 1



☐ Brief

☒ Amendment/Response

☐ Appeal

☐ IDS, PTO-1449 & \_\_\_ documents

☐ Issue fee

☐ Maintenance fee

☐ Notice to File Missing Parts

☐ Certificate to Express Mail

☒ OTHER (Specify) Petition Under CFR

1.53(c)

MacCord Mason PLLC - Docket No. 2250-013

Assistant Commissioner for Patents  
Washington DC 20231

Date: 11-13-01  
SN/Pat. No. 09/905,485  
Filing/Issue Date: 9-27-2001  
Applicant/Inventor Name: John M. Smith et al

Kindly acknowledge receipt of the accompanying items listed below  
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☐ Application papers:

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☐ Number of claims     

☐ Declaration

☐ Power of Attorney     

☐ Assignment & fee     

☐ Small Entity Statement

☒ Drawing pages 1

☐ Brief

☒ Amendment/Response

☐ Appeal

☐ IDS, PTO-1449 &      documents

☐ Issue fee


☐ Maintenance fee

☐ Notice to File Missing Parts

☐ Certificate to Express Mail

☒ OTHER (Specify) Petition Under CFE  
1.53(c),

MacCord Mason PLLC - Docket No. 2250-013

MACCORD MASON PLLC Attorneys At Law GENERAL ACCOUNT POST OFFICE BOX 2974 GREENSBORO, NORTH CAROLINA 27402 TEL (336) 279-4422 FAX (336) 271-2830		FIRST UNION NATIONAL BANK 66-858/531-20089		40397	
One Hundred Thirty & No/100 Dollars		DATE 11/13/2001		AMOUNT 130.00	
Director for Patents		NOT VALID OVER \$10,000 WITHOUT DUAL SIGNATURES			
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MACCORD MASON PLLC/ATTORNEYS AT LAW/GENERAL ACCOUNT

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11/13/2001 Director for Patents

Invoice Date	Invoice No.	Description	Matter ID	Amount
11/1/2001		Petition fee	2250-013	130.00

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: John M. Smith III  
Serial Number to Be Assigned: 09/965,485  
Filing Date to Be Assigned: 9/27/2001  
Confirmation No.: 3741

Commissioner for Patents  
Washington, DC 20231

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JUL 24 2002

PETITIONS OFFICE

**PETITION UNDER 37 CFR 1.53(e)**

Dear Sir:

Counsel has received a Notice of Incomplete Non-Provisional Application indicating that the application was deposited without drawings. The omitted drawings are not necessary for an understanding of the invention, so the application should be given the filing date of September 27, 2001, when the papers were deposited. Our check for \$130.00 for the 37 CFR 1.17(h) fee is enclosed. However, because applicant believes that its application is entitled to the September 27, 2001 filing date, it is requested that the enclosed petition fee be refunded.

According to MPEP § 601.01(f) 8<sup>th</sup> edition, it has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention, under 35 U.S.C. § 113. Claims 22-41 of this application are all method claims and so therefore need drawings for understanding.

In addition, MPEP § 601.01(f) indicates that coated articles or products are deemed not to require a drawing. Claims 1-21 of this application conform to criteria. Accordingly, no drawing is required for this application under 35 U.S.C. 113, and so

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applicant should be accorded the filing date of September 27, 2001, the date of deposit of the papers that the PTO has received.

In an accompanying preliminary amendment, applicant has amended the specification to delete the references to the drawings inadvertently omitted, in order to conform to the non-drawing situation. For the Examiner's convenience, however, a copy of the drawing is enclosed, showing use of the fabric as a bedspread, drapery, and upholstery fabric. These drawings were intended to provide depictions of the subject matter of claims 11, 12, and 13, but it is believed that the claims can survive without submission of the drawings. On the other hand, should the Examiner deem that drawings are required under 37 CFR 1.84, submission of a drawing comparable to the enclosed would not amount to new matter, having been fully supported by the text of claims 11, 12 and 13, as well as the specification at page 1, line 27-29.

It is believed that this application is now in condition for examination with a filing date of September 27, 2001. Evaluation of this petition to restore applicant's filing date of September 27, 2001, is respectfully requested.

Respectfully submitted,

  
Howard A. MacCord, Jr.  
Registration No. 28,639

Date: 13 October 2001  
File No. 2250-013

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#9

**IN THE PATENT AND TRADEMARK OFFICE**

In re Application of: John M. Smith, III  
Serial No.: 09/965,485  
Filed: September 27, 2001  
For: TREATED INHERENTLY FLAME RESISTANT POLYESTER FABRICS

Commissioner for Patents  
Washington, DC 20231

**PRELIMINARY AMENDMENT**

Dear Sir:

Responsive to the Notice of Incomplete and Non-Provisional Application mailed  
October 25, 2001, please amend this application as follows:

In the Specification

In the Specification, please delete the text at page 3, line 7-15.

Remarks

Counsel received a Notice of Incomplete and Non-Provisional Application indicating that the application was deposited without drawings. Applicant has amended the specification to delete the references to the drawings which were inadvertently omitted, in order to conform to the non-drawing situation.

As set forth in the accompanying petition under 37 CFR 1.53(e), it is believed that this application is now in condition for examination with a filing date of September 27, 2001.

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Respectfully Submitted,



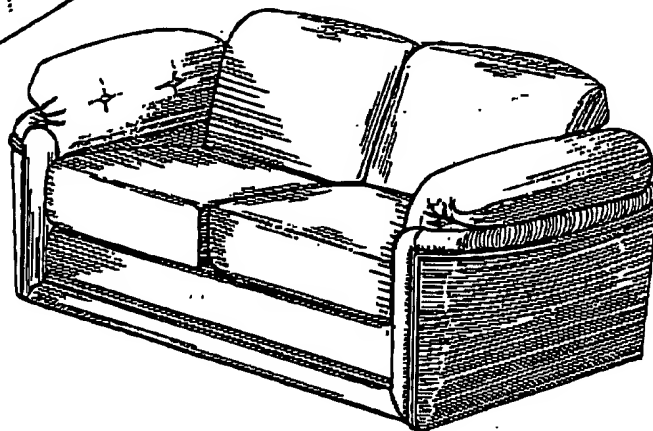
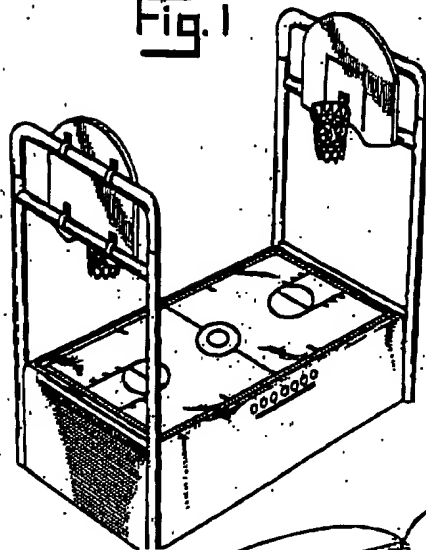
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(336) 273-4422

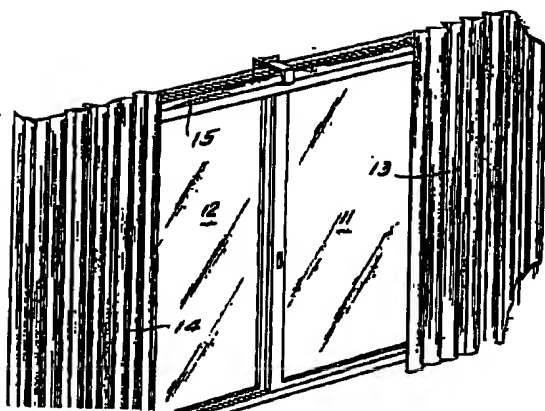
Date: 13 November 2007  
Docket: 2250-013

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**Fig. 1**



**FIG. 2**



**FIGURE 3**